COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1696-01
Bill No.: HB 620
Subject: Tax Credits, Economic Development, Business and Commerce, Enterprise Zones, Economic Development Department
Type: Original
Date: April 5, 2013

Bill Summary: This proposes to establish tax incentives through retained withholding taxes and refundable income and financial institution tax credits for qualified companies.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
General Revenue	$0 to (Unknown greater than $11,634,362)	$0 to (Unknown greater than $9,466,823)	$0 to (Unknown greater than $25,669,480)
Total Estimated Net Effect on General Revenue Fund	**$0 to (Unknown greater than $11,634,362)**	**$0 to (Unknown greater than $9,466,823)**	**$0 to (Unknown greater than $25,669,480)**

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
Total Estimated Net Effect on Other State Funds	**$0**	**$0**	**$0**

Note: The fiscal note does not reflect the possibility that some of the tax credits could be utilized by insurance companies against insurance premium taxes. If this occurs, the loss in tax revenue would be split between the General Revenue Fund and the County Foreign Insurance Fund, which ultimately goes to local school districts.

Numbers within parentheses: ( ) indicate costs or losses. This fiscal note contains 11 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
Total Estimated Net Effect on All Federal Funds	**$0**	**$0**	**$0**

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
Total Estimated Net Effect on FTE	**0**	**0**	**0**

☒ Estimated Total Net Effect on All funds expected to exceed $100,000 savings or (cost).

☒ Estimated Net Effect on General Revenue Fund expected to exceed $100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
Local Government	**$0**	**$0**	**$0**

FISCAL ANALYSIS

ASSUMPTION

Officials at the **Office of Administration - Budget and Planning** (**BAP**) assume this proposal creates the Buck Stops Here Economic Development Tax Credit Reform, which sunsets four current business incentive programs and creates one new incentive program. The cap for the new program is $90 million in FY 2014 and beyond. This proposal could therefore lower General and Total State Revenues by that amount. There may also be an impact to 18e.

The legislation sunsets the following tax credit programs: Missouri Quality Jobs, Enhanced Enterprise Zone, Development, and Rebuilding Communities. The aggregate cap on tax credits for the programs being phased out under this proposal totals at least $118 million annually. The negative impact noted above could be offset by the amount the sunset programs have been utilized historically.

As with the existing Missouri Quality Jobs program, retained withholding benefits would not be subject to the annual tax credit cap under this proposal. This will have an unknown negative impact on General and Total State Revenues.

The new Buck Stops Here Economic Development Tax Credit Reform may encourage other economic activity, but BAP does not have data to estimate induced revenues. The Department of Economic Development may have such an estimate.

Officials at the **Department of Economic Development** (**DED**) assume part of the proposal revises the Enhanced Enterprise Zone program to allow the majority vote of members of the governing authority to adopt an ordinance or resolution to designate an Enhanced Enterprise Zone (EEZ). This removes DED from the authorization process of EEZs, which DED assumes will have an unknown positive impact.

This proposal creates the Buck Stops Here Economic Development Tax Credit Reform program to be administered by DED's Division of Business and Community Services (BCS). The program would operate in a similar fashion to the current Missouri Quality Jobs program by providing performance-based benefits in the form of retained withholding taxes and tax credits to qualified companies that create new jobs. The proposal also authorizes the award of additional discretionary tax credits to qualified companies that create jobs and investment that provide a net fiscal benefit to the state, similar to the existing BUILD program. The Buck Stops Here proposal mandates a positive net fiscal benefit to the state for any award of discretionary tax credits and requires DED to report quarterly to the General Assembly the positive net fiscal benefit of each project awarded, which will ensure that discretion is exercised in accordance with this directive.

ASSUMPTION (continued)

The Buck Stops Here proposal phases-out four current business incentive tax credit programs, which include: Missouri Quality Jobs (620.1875), Enhanced Enterprise Zone (135.950), Development Tax Credit (32.100), and the Rebuilding Communities Tax Credit (135.535). Projects previously offered benefits under these programs may continue to receive such benefits, but no new awards may be made under these programs. The aggregate cap on tax credits for the programs being phased out under this proposal totals at least $118 million annually. The proposed Buck Stops Here program imposes a $90 million cap on tax credits. Any decision to reward additional incentives requires the signature of the Governor if the discretionary award is greater than $1 million dollars per year.

It is unknown how many qualified companies would seek and be eligible for benefits under this program. With respect to the entitlement benefits under this proposal, DED estimates an unknown positive fiscal impact of greater than $100,000, because projects awarded such benefits are anticipated to provide an overall net fiscal benefit to the state, even if not every individual project would have a net fiscal benefit to the state. Similarly, DED estimates a positive fiscal impact of greater than $100,000 for any discretionary tax credits awarded under this proposal because the award of any such tax credits is restricted to projects having a net fiscal benefit to the state.

In response to similar legislation filed this year (SB 323), officials at DED supplied Oversight with the following information. Recognizing the outstanding obligations under the current programs being phased out, the proposal reduces the annual statutory caps by the amount of the existing tax credit obligations under the current programs.

Fiscal Year	Maximum Annual Tax Credit Cap	Obligated under Current Programs	Effective Annual Tax Credit Cap
FY14	$90,000,000	$78,365,638	$11,634,362
FY15	$90,000,000	$80,533,177	$9,466,823
FY16	$90,000,000	$64,330,520	$25,669,480

Officials at the **Department of Revenue** (**DOR**) assume this proposal would require form and computer programming changes to various tax systems. These changes are estimated to cost $36,247, for 1,340 FTE hours.

DOR assumes the Personal Tax Division will need one Revenue Processing Technician I ($25,884) per 4,000 additional tax credits redeemed. The Corporate Tax Division will need one Revenue Processing Technician I ($25,884) per 6,000 tax credits redeemed and one Revenue Processing Technician I ($25,884) per 7,800 pieces of additional withholding correspondence

ASSUMPTION (continued)

processed. The Withholding Division will need one Revenue Processing Technician I ($25,884) per 7,800 pieces of additional withholding corresponded processed.

Oversight assumes DOR is provided with core funding to handle a certain amount of computer programming activity each year. Oversight assumes DOR could absorb the costs related to this proposal. If multiple bills pass which require additional staffing and duties at substantial costs, DOR could request funding through the appropriation process.

Oversight assumes DOR's Personal/Corporate/Withholding Tax Divisions could absorb the responsibilities of this tax credit with existing resources. Should DOR experience the number of additional tax credit redemptions to justify another FTE, they could seek that FTE through the appropriation process.

Officials at the **City of Columbia**, **City of Kansas City**, **Joint Committee on Administrative Rules** and the **Office of the Governor** each assume there is no fiscal impact to their organization from this proposal.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration (DIFP)** state an unknown reduction of premium tax revenues as a result of the establishment of the Buck Stops Here tax credit reform is possible. Premium tax revenue is split 50/50 between General Revenue and County Foreign Insurance Fund except for domestic Stock Property and Casualty Companies who pay premium tax to the County Stock Fund. The County Foreign Insurance Fund is later distributed to school districts throughout the state. County Stock Funds are later distributed to the school district and county treasurer of the county in which the principal office of the insurer is located. It is unknown how each of these funds may be impacted by tax credits each year.

DIFP will require minimal contract computer programming to add this new tax credit to the premium tax database and can do so under existing appropriation. However, should multiple bills pass that would require additional updates to the premium tax database, the department may need to request more expense and equipment appropriation through the budget process.

ASSUMPTION (continued)

Development Tax Credit
Oversight notes that according to the Tax Credit Analysis submitted by DED regarding this program, the Development tax credit program had the following activity;

	FY 2010	FY 2011	FY 2012
Amount Issued	$2,713,000	$3,970,771	$3,624,811
Amount Redeemed	$1,589,618	$1,001,142	$3,856,648

The Development tax credit has a $6 million annual cap. The average amount of the credits issued over the last five years has been $2,560,772.

Rebuilding Communities Tax Credit
Oversight notes that according to the Tax Credit Analysis submitted by the DED regarding this program, the Rebuilding Communities tax credit program had the following activity;

	FY 2010	FY 2011	FY 2012
Amount Issued	$1,419,758	$1,444,107	$1,883,336
Amount Redeemed	$1,553,894	$1,277,135	$1,388,190

The Rebuilding Communities tax credit has an $8 million annual cap. The average amount of the credits issued over the last five years has been $1,684,041.

Enhanced Enterprise Zone Tax Credit
Oversight notes that according to the Tax Credit Analysis submitted by the DED regarding this program, the Enhanced Enterprise Zone tax credit program had the following activity;

	FY 2010	FY 2011	FY 2012
Amount Issued	$5,068,487	$6,853,727	$6,525,256
Amount Redeemed	$2,916,392	$4,000,689	$7,324,093

The Enhanced Enterprise Zone tax credit has a $24 million annual cap. The average amount of the credits issued over the last five years has been $4,381,914.

ASSUMPTION (continued)

Missouri Quality Jobs Tax Credit
Oversight notes that according to the Tax Credit Analysis submitted by the DED regarding this program, the Missouri Quality Jobs tax credit program had the following activity;

	FY 2010	FY 2011	FY 2012
Amount Issued	$14,863,017	$28,098,496	$37,749,051
Amount Redeemed	$14,238,179	$27,936,799	$35,431,828

The Missouri Quality Jobs tax credit has an $80 million annual cap. The average amount of the credits issued over the last five years has been $19,160,737.

Oversight assumes it is unclear how many companies will qualify for the withholding tax so Oversight will show in the fiscal note the cost to General Revenue as $0 to Unknown. Since the tax credits are capped each fiscal year and the number of unobligated credits is known, **Oversight** will show the loss of the tax credit revenue to General Revenue as $0 to the unobligated amount.

Officials from the **Office of the Secretary of State (SOS)** state many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to the SOS for Administrative Rules is less than $2,500. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, the SOS also recognizes that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what the office can sustain with the core budget. Therefore, the SOS reserves the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

Oversight assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process.

Oversight assumes the creation of this new program outlined in this proposal may have a positive impact on the state. However, Oversight considers this to be indirect impact of the proposal and will not reflect it in this fiscal note.

FISCAL IMPACT - State Government	FY 2014 (10 Mo.)	FY 2015	FY 2016
GENERAL REVENUE			
Revenue Reduction - retained withholding taxes	$0 to (Unknown)	$0 to (Unknown)	$0 to (Unknown)
Revenue Reduction - net tax credits	$0 to ($11,634,362)	$0 to ($9,466,823)	$0 to ($25,669,480)
ESTIMATED NET EFFECT ON GENERAL REVENUE	**$0 to (Unknown greater than $11,634,362)**	**$0 to (Unknown greater than $9,466,823)**	**$0 to (Unknown greater than $25,669,480)**

Note: The fiscal note does not reflect the possibility that some of the tax credits could be utilized by insurance companies against insurance premium taxes. If this occurs, the loss in tax revenue would be split between the General Revenue Fund and the County Foreign Insurance Fund, which ultimately goes to local school districts.

FISCAL IMPACT - Local Government	FY 2014 (10 Mo.)	FY 2015	FY 2016
	$0	**$0**	**$0**

FISCAL IMPACT - Small Business

Small businesses may be impacted by the change in the tax credits

FISCAL DESCRIPTION

This bill revises the process for designating an enhanced enterprise zone by repealing the requirement that the Director of the Department of Economic Development be given 30 days' notice prior to the required hearing. After a public hearing, the governing authority of the political subdivision may adopt an ordinance or resolution to designate an area as an enhanced enterprise zone, rather than filing a petition with the department as is currently required.

The bill establishes the Buck Stops Here Economic Development Tax Credit Reform Program. The program provides tax incentives through retained withholding taxes and refundable income and financial institutions tax credits for qualified companies. The program provides entitlement

FISCAL DESCRIPTION (continued)

and discretionary benefits for qualified companies that offer health insurance to employees and pay at least 50% of the premiums. Tax credits provided under the program are fully transferrable and must be used within one taxable year following the taxable year in which they are issued.

Qualified companies may retain one-third of the withholding tax for new jobs for five years after the date the jobs are created or six years if the qualified company is an existing Missouri business, if the qualified company creates 10 or more new jobs at an average wage of 90% or more of the county average wage; the qualified company creates two or more new jobs in a rural area at an average wage of 90% or more of the county average wage and the qualified company commits at least $100,000 to new capital investment at the project facility within two years; or if the qualified company creates two or more new jobs in an enhanced enterprise zone, the average wage of the new jobs equals or exceeds 80% of the county average wage, and the qualified company commits at least $100,000 to new capital investment at the project facility within two years. The company may also receive tax credits of up to 8% of new payroll to be issued each year for five years if the combined tax credit and retained withholding benefits do not exceed 9% of the new payroll in any year, based on a list of factors for the department's consideration in granting the credits. Each decision to award additional incentives must be accompanied by a written decision that addresses each factor and the signature of the Governor if the amount of the award is greater than $1 million per year. When the department approves a notice of intent to receive tax credits, it must enter into a written agreement with the qualified company that specifies, at a minimum, the number of new jobs, new payroll, and new capital investment for each year during the project period; the period over which the tax credits will be issued; clawback provisions as may be required by the department but which must include repayment of interest at 9% annually; and any other provisions that the department may require. A qualified company that produces 10 or more jobs at the required wage may also receive tax credits of up to 3% of new payroll for five years as long as the total benefits awarded do not exceed 12% of new payroll in any year. These benefits also require a written decision and the Governor's signature when the award is greater than $1 million per year. No benefits can be available for a qualified company that has performed significant, project-specific site work at the project facility, purchased machinery or equipment related to the project, or has publicly announced its intention to create new jobs or make new capital investment at the facility prior to the approval of its notice of intent.

A benefit for retained jobs, not to exceed $6 million in the aggregate in any fiscal year, may be awarded if the department determines that there is a significant probability that a qualified company would relocate out of state if the benefit were not available. A qualified company may be authorized to retain an amount not to exceed 100% of the withholding tax from full-time jobs for 10 years if the average wage of the retained jobs equals or exceeds 90% of the county average

FISCAL DESCRIPTION (continued)

wage. Requirements for these benefits include retaining at least 50 jobs for 10 years and making a new capital investment at the project facility within three years in an amount equal to one-half the total benefits offered to the company. These benefits also require the Governor's signature when the award is greater than $1 million.

The department is required to respond to a written request for a proposed benefit award under the program within five business days of the receipt of the request. The response must contain a proposal of benefits or a written refusal stating the reasons for the refusal. Failure by the department to respond to a notice of intent within 30 days will result in it being deemed approved.

By no later than January 1, 2014, the department must provide quarterly reports on the program to the General Assembly, including, at a minimum, a listing of all applicants and the department's response time to requests for proposed benefit awards. A qualified company that receives benefits under the program is required to provide an annual report to the department in order to document compliance with all applicable requirements.

Beginning August 28, 2013, no new benefits can be authorized for any project that has not already been approved by the department under the Development Tax Credit Tax Program, the Rebuilding Communities Tax Credit Program, the Enhanced Enterprise Zone Tax Credit Program, and the Missouri Quality Jobs Program. The total amount of all tax credits authorized for each fiscal year under the Compete Missouri Program, including any outstanding authorizations for tax credits under the other four specified programs, cannot exceed $90 million for fiscal years 2014, 2015, and 2016.

The provisions of the bill expire six years after the effective date.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

JH:LR:OD

SOURCES OF INFORMATION

City of Columbia
City of Kansas City
Department of Economic Development
Department of Insurance, Financial Institutions and Professional Registration
Department of Revenue
Joint Committee on Administrative Rules
Office of Administration
Budget and Planning
Office of the Governor
Office of the Secretary of State

Ross Strope
Acting Director
April 5, 2013

JH:LR:OD